

**FREEMAN, DUNN, ALEXANDER, YEATIS & TILLER**

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

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May 14, 2004

Ellen L. Weintraub, Chair  
Attn: Kimberley Hart, Esq.  
Federal Election Commission  
999 E Street, N.W.  
Washington, DC 20463

Confidential

RE: MUR 5396  
America Direct, Inc.

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

2004 MAY 17 P 2 00

Dear Ms. Weintraub:

This firm has been retained to represent America Direct, Inc., (hereinafter referred to as "ADI") in the above referenced matter. Enclosed please find an affidavit from Randy L. Spradlin, President of ADI, prepared in response to your letter and enclosures dated December 10, 2003.

Once you have had the benefit of more information regarding the usual business practices of ADI, I am sure you will realize that its conduct in this matter is indistinguishable from its ordinary non-political business practices. More importantly, these business methods are used by ADI in all of its business activities, for both political and non-political clients. ADI's conduct in this matter follows exactly the pattern, which it uses in all of its business activities.

Unfortunately, the Commission cannot be expected to be familiar with all of the complex commercial details and strategic business planning of this highly competitive business. We believe that the inferences the Commission has drawn from a review of the invoice and payment dates does not support the conclusions asserted in your December 10 letter. We believe that it is clear that ADI has acted in a commercially reasonable way and that the collections received were in the ordinary course of ADI's routine commercial activity. ADI had no intention to make any "contribution" to this or any other political candidate client.

Please refer specifically to Exhibit B to the Spradlin Affidavit. ADI will gladly provide additional examples, if further evidence is needed.

ADI does not believe that the assertions of fact or conclusions of law stated  
are correct. The Commission's recitation of ADI's conduct is substantially different than ADI's actual management of the Bauer for President 2000, Inc. account. ADI did not in any regard violate the provisions of any applicable federal election regulations.

**FREEMAN, DUNN, ALEXANDER, YEATTS & TILLER**

ADI specifically reserves its rights to confidentiality of these proceedings in this matter as provided by statute, and specifically declines to waive any aspect of its confidentiality rights in this matter.

Please do not hesitate to contact me if you have any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read 'E. Patrick Yeatts', written over the typed name.

E. Patrick Yeatts

cc: America Direct, Inc.

## AFFIDAVIT

In Re: MUR: 5396 Respondents: America Direct, Inc.

COMMONWEALTH OF VIRGINIA, BEDFORD COUNTY, to-wit:

Personally appeared before me, the undersigned Notary Public, Randy Spradlin, President of America Direct, Inc. ("ADI"), who, after being first duly sworn, deposes and states:

- 1) He is the President of ADI, a direct mail broker located in Forest, Virginia; and,
- 2) He is personally familiar with all aspects of ADI, including the direct mail services provided by ADI and various vendors to Bauer for President 2000, Inc. ("Committee"); and,
- 3) All work performed for the Committee was in ADI's ordinary course of business, and all was substantially similar to work performed for other political as well nonpolitical debtors; and,
- 4) The Lukens Company (formerly known as The Lukens Cook Company), a direct mail agency located in Arlington, VA, initially contacted America Direct, Inc. about performing work for the Committee; and,
- 5) America Direct, Inc. normally billed the Committee directly for work performed. However, there are several vendors of ADI that billed the Committee directly.
- 6) Attached as Exhibit A is a list detailing the history of the Committee's payment history; and,
- 7) ADI normally directed its' billing and payment requests to the The Lukens Company, and would periodically follow up on payment with the principals of the Lukens Company. However, on several isolated occasions late in the campaign, the undersigned spoke directly with employees of the Committee about payments; and,
- 8) Attached as Exhibit B is a list of several clients of ADI, which details various invoiced amounts as well as the payment history of each client regarding the same; and,
- 9) As evidenced by Exhibit B, ADI often does not receive timely payments from its' clients (political and nonpolitical); and,
- 10) As evidenced by Exhibit B, the risk and size of the Committee's obligations were similar to the risk and size of various other nonpolitical clients of ADI during the same period of time; and,
- 11) Although ADI's invoices indicate that payment is "due in 30 days", ADI typically is paid incrementally over time by political and nonpolitical clients alike; and,
- 12) ADI rarely, if ever, sends out subsequent invoices or demand letters so long as the client (political or nonpolitical) is continuing to service its' obligation. ADI will often call its' client to prompt the client to make more timely payments; and,
- 13) The action taken to collect the various obligations of ADI's nonpolitical clients, as set forth on Exhibit B, was identical to the action taken to collect the obligation of the Committee; and,

25 JUL 10 10 35

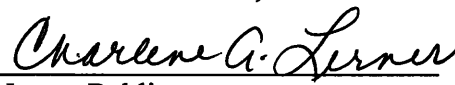
- 14) ADI has not deviated from any of its' established procedures or practices in dealing with the Committee; and,
- 15) ADI believes that its' practices conform to the usual and normal practices in the direct mail industry; and,
- 16) The Committee currently owes ADI \$32,289.42, and has most recently made a payment of \$3,600 in January of 2004 as evidenced by Exhibit A.

America Direct, Inc., Respondent

By: 

Randy L. Spradlin, President

Subscribed and sworn to before me this 14<sup>th</sup> day of May 2004 by Randy L. Spradlin, President of America Direct, Inc.

  
Notary Public

My commission expires: 7/31/05

(SEAL)

25.04.410.1096

11:47 AM  
05/06/04  
Accrual Basis

AMERICA DIRECT, INC.  
Find Report  
All Transactions

Debit Payment History

each unit is 1  
number is  
payments

Type	Date	Num	Name	Memo	Account	Class	Cir	Split	Amount	Balance
Payment	1/19/2004	4016	BFP-4132 Forbes ...		1500 UNDERPOS...		X	13000 ACCO...	3,600.00	3,600.00
Payment	1/19/2004	4016	BFP-4132 Forbes ...		13000 ACCOUNT...			15000 UNDE...	-3,600.00	0.00
Payment	10/24/2002	2522	BFP-4188 Debt Re...		1500 UNDERPOS...		X	13000 ACCO...	2,573.20	2,573.20
Payment	10/24/2002	2522	BFP-4188 Debt Re...		13000 ACCOUNT...			15000 UNDE...	-2,573.20	0.00
Payment	10/24/2002	3568	BFP-4132 Forbes ...		1500 UNDERPOS...		X	13000 ACCO...	10,000.00	10,000.00
Payment	10/24/2002	3568	BFP-4132 Forbes ...		13000 ACCOUNT...			15000 UNDE...	-10,000.00	0.00
Payment	5/14/2002	3546	BFP-4116 Decemb...		1500 UNDERPOS...		X	13000 ACCO...	1,957.07	1,957.07
Payment	5/14/2002	3546	BFP-4116 Decemb...		13000 ACCOUNT...			15000 UNDE...	-1,957.07	0.00
Payment	5/14/2002	3546	BFP-4132 Forbes ...		1500 UNDERPOS...		X	13000 ACCO...	542.93	542.93
Payment	5/14/2002	3546	BFP-4132 Forbes ...		13000 ACCOUNT...			15000 UNDE...	-542.93	0.00
Payment	2/28/2002	3521	BFP-4116 Decemb...		1500 UNDERPOS...		X	13000 ACCO...	6,358.00	6,358.00
Payment	2/28/2002	3521	BFP-4116 Decemb...		13000 ACCOUNT...			15000 UNDE...	-6,358.00	0.00
Payment	12/31/2001	3494	BFP-4116 Decemb...		1500 UNDERPOS...		X	13000 ACCO...	2,500.00	2,500.00
Payment	12/31/2001	3494	BFP-4116 Decemb...		13000 ACCOUNT...			15000 UNDE...	-2,500.00	0.00
Payment	12/11/2001	2406	BFP-4199 Emerge...		1500 UNDERPOS...		X	13000 ACCO...	5,661.04	5,661.04
Payment	12/11/2001	2406	BFP-4199 Emerge...		13000 ACCOUNT...			15000 UNDE...	-5,661.04	0.00
Payment	10/8/2001	3471	BFP-4116 Decemb...		1500 UNDERPOS...		X	13000 ACCO...	5,000.00	5,000.00
Payment	10/8/2001	3471	BFP-4116 Decemb...		13000 ACCOUNT...			15000 UNDE...	-5,000.00	0.00
Payment	6/6/2001	8478	BFP-4200 Persona...		1500 UNDERPOS...		X	13000 ACCO...	7,100.94	7,100.94
Payment	6/6/2001	8478	BFP-4200 Persona...		13000 ACCOUNT...			15000 UNDE...	-7,100.94	0.00
Payment	6/6/2001	3381	BFP-4116 Decemb...		1500 UNDERPOS...		X	13000 ACCO...	15,000.00	15,000.00
Payment	6/6/2001	3381	BFP-4116 Decemb...		13000 ACCOUNT...			15000 UNDE...	-15,000.00	0.00
Payment	1/31/2001	3287	BFP-4113 Iowa Inv...		1500 UNDERPOS...		X	13000 ACCO...	2,205.51	2,205.51
Payment	1/31/2001	3287	BFP-4113 Iowa Inv...		13000 ACCOUNT...			15000 UNDE...	-2,205.51	0.00
Payment	1/31/2001	3287	BFP-4113 Iowa Inv...		1500 UNDERPOS...		X	13000 ACCO...	1,850.00	1,850.00
Payment	1/31/2001	3287	BFP-4113 Iowa Inv...		13000 ACCOUNT...			15000 UNDE...	-1,850.00	0.00
Payment	1/31/2001	3287	BFP-4113 Iowa Inv...		1500 UNDERPOS...		X	13000 ACCO...	947.28	947.28
Payment	1/31/2001	3287	BFP-4113 Iowa Inv...		13000 ACCOUNT...			15000 UNDE...	-947.28	0.00
Payment	12/19/2000	3252	BFP-4134 Voter P...		1500 UNDERPOS...		X	13000 ACCO...	14,791.20	14,791.20
Payment	12/19/2000	3252	BFP-4134 Voter P...		13000 ACCOUNT...			15000 UNDE...	-14,791.20	0.00
Payment	11/21/2000	3175	BFP-4133 voter P...		1500 UNDERPOS...		X	13000 ACCO...	12,709.25	12,709.25
Payment	11/21/2000	3175	BFP-4133 voter P...		13000 ACCOUNT...			15000 UNDE...	-12,709.25	0.00
Payment	8/10/2000	3116	BFP-4103 Chain of...		1500 UNDERPOS...		X	13000 ACCO...	10,972.25	10,972.25
Payment	8/10/2000	3116	BFP-4103 Chain of...		13000 ACCOUNT...			15000 UNDE...	-10,972.25	0.00
Payment	7/5/2000	3075	BFP-4117 Photo P...		1500 UNDERPOS...		X	13000 ACCO...	29,578.63	29,578.63
Payment	7/5/2000	3075	BFP-4117 Photo P...		13000 ACCOUNT...			15000 UNDE...	-29,578.63	0.00
Payment	6/29/2000	6904	BFP-4108 3-month...		1500 UNDERPOS...		X	13000 ACCO...	57,883.51	57,883.51
Payment	6/29/2000	6904	BFP-4108 3-month...		13000 ACCOUNT...			15000 UNDE...	-57,883.51	0.00
Payment	6/23/2000	060127	BFP-4062 Wife Let...		1500 UNDERPOS...		X	13000 ACCO...	21,144.37	21,144.37
Payment	6/23/2000	060127	BFP-4062 Wife Let...		13000 ACCOUNT...			15000 UNDE...	-21,144.37	0.00
Payment	6/15/2000	3043	BFP-4103 Chain of...		1500 UNDERPOS...		X	13000 ACCO...	33,000.00	33,000.00
Payment	6/15/2000	3043	BFP-4103 Chain of...		13000 ACCOUNT...			15000 UNDE...	-33,000.00	0.00
Payment	4/27/2000	2907	BFP-4136 Cancele...		1500 UNDERPOS...		X	13000 ACCO...	3,968.05	3,968.05
Payment	4/27/2000	2907	BFP-4136 Cancele...		13000 ACCOUNT...			15000 UNDE...	-3,968.05	0.00
Payment	4/27/2000	2917	BFP-5077 October...		1500 UNDERPOS...		X	13000 ACCO...	31,327.59	31,327.59
Payment	4/27/2000	2917	BFP-5077 October...		13000 ACCOUNT...			15000 UNDE...	-31,327.59	0.00

11:47 AM  
05/08/04  
Accrual Basis

AMERICA DIRECT, INC.  
Find Report  
All Transactions

Type	Date	Num	Name	Memo	Account	Class	Cir	Split	Amount	Balance
Payment	12/28/1999	1232	BFP-4043 Almes I...		15000 UNDEPOSI...		X	13000 ACCO...	13,873.80	13,873.80
Payment	12/28/1999	1232	BFP-4043 Almes I...		13000 ACCOUNT...			15000 UNDE...	-13,873.80	0.00
Payment	11/9/1999	1176	BFP-4025 STATE ...		15000 UNDEPOSI..		X	13000 ACCO...	11,081.28	11,081.28
Payment	11/9/1999	1176	BFP-4025 STATE ...		13000 ACCOUNT...			15000 UNDE...	-11,081.28	0.00
Payment	11/9/1999	1176	BFP 4042 BFP Ju...		15000 UNDEPOSI...		X	13000 ACCO...	11,187.16	11,187.16
Payment	11/9/1999	1176	BFP-4042 BFP Ju...		13000 ACCOUNT...			15000 UNDE...	-11,187.16	0.00
Payment	10/31/1999	2135	BFP-4049 June Te...		15000 UNDEPOSI..		X	13000 ACCO...	7,202.40	7,202.40
Payment	10/31/1999	2135	BFP-4049 June Te...		13000 ACCOUNT...			15000 UNDE...	-7,202.40	0.00
Payment	10/31/1999	2135	BFP-4032 MORAL ..		15000 UNDEPOSI...		X	13000 ACCO...	1,503.07	1,503.07
Payment	10/31/1999	2135	BFP-4032 MORAL ...		13000 ACCOUNT...			15000 UNDE...	-1,503.07	0.00
Payment	10/31/1999	2135	BFP-5064 August ...		15000 UNDEPOSI...		X	13000 ACCO...	39,879.13	39,879.13
Payment	10/31/1999	2135	BFP-5064 August ...		13000 ACCOUNT...			15000 UNDE...	-39,879.13	0.00
Total									0.00	0.00

**AMERICA DIRECT, INC.**  
**A/R Aging Summary**  
As of May 6, 2004

Current	1 - 30	31 - 60	61 - 90	> 90	TOTAL
0.00	0.00	0.00	0.00	1,403.28	1,403.28
0.00	0.00	0.00	0.00	1,294.76	1,294.76
0.00	0.00	0.00	0.00	1,932.21	1,932.21
0.00	0.00	0.00	0.00	915.40	915.40
0.00	0.00	0.00	0.00	375.00	375.00
0.00	0.00	0.00	0.00	1,242.51	1,242.51
0.00	0.00	0.00	0.00	448.31	448.31
0.00	0.00	0.00	0.00	479.66	479.66
0.00	0.00	0.00	0.00	748.22	748.22
0.00	0.00	0.00	0.00	761.18	761.18
0.00	0.00	0.00	0.00	1,870.32	1,870.32
0.00	0.00	0.00	0.00	1,911.37	1,911.37
0.00	0.00	0.00	0.00	13,382.22	13,382.22
0.00	0.00	0.00	0.00	13,382.22	13,382.22

*examples of payment  
by client*

